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Essex North Registry

DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY

ON THE APPLICATION OF
146 Dascomb Road
By: Dascomb Road Development, LLC

For a Special Permit for Major Non-Residential Project
under Section 9.4.8 of the Andover Zoning Bylaw

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TOWN OF ANDOVER, MASS

Decision: SP17-07

YES (with conditions)

A public meeting of the Planning Board was held on September 3, 2019 in the Second Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Zachary Bergeron, Vincent Chiozzi, Joan Duff, Ann Knowles, and Neil Magenheimer.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on November 8, 2018 and November 15, 2018 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened by the Planning Board (the "Board") on November 26, 2018, for an application filed on October 31, 2018 by Dascomb Road Development, LLC on property owned by Dascomb Road Development, LLC for a Major Non-Residential Project. The property is more specifically identified as Lot 2 on Assessor's Map 203. The public hearing was closed on September 3, 2019. The aforementioned members present throughout.

According to Section 9.4.2. of the Zoning By-law, Special Permits may be granted when the Planning Board has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such is in harmony with the general purpose and intent of the By-law.

Overview

In January 2018 the Board started a review of special permits to allow for the construction of 600,000 square foot mix of restaurant, retail, office, grocery, hotel and fitness center. A determination was made by the Inspector of Building that the proposal did not meet the lot coverage section of the zoning bylaw, which caused the applicant to withdraw the plans for a redesign.

A new special permit application was filed in October 2018 requesting to construct 524,000 square feet of restaurant, retail, office, grocery, hotel and fitness center. The applicant has suggested the Board review the plans as a Master Plan of the site to determine what improvements will be needed to the roadways, sewer and water systems to allow for a project of this size, but to hold off on the approval of the individual buildings and site improvements. Each of those would be required to come back to the Board for approval. The Board has agreed to review the project as a Master Plan and in doing so will set the expectations for the developer to mitigate the increase in traffic, provide sewer services, and provide adequate water service and safe access to the site. These topics have been reviewed by the Board, town staff, and peer reviewers. It has been shown that the traffic can be mitigated through the improvements to the roadways and with the addition of new traffic signals, adjustment of timing of existing signals and realignment of roadways. Sewer can be accommodated with the construction of a new sewer main and pump station and improvements and repairs to the existing system. Adequate water service and safe access will be provided to the site prior to approval of individual buildings. Final details of the traffic signals and road improvements, final sizing of the sewer system and mitigation of existing sewer issues will be finalized along with the sizing and review of connections to the water system. All will require an additional review by the Board and Town departments. During a series of public hearings held from November 2018 to August 2019, the Board discussed each of the topics listed to help with the determination of whether the proposal meets the special permit criteria.

The hearings encompassed information on traffic, stormwater, sewer, water, fiscal impact and site layout and details. The Master Plan for now is five phases, but it could be fewer based on the needs of tenants. The Master Plan proposes the uses, square footage and site layout, identifies impacts and proposes mitigation which allows for the required special permits to be obtained. It was stated that each phase would return to the Planning Board for an additional review with an Interdepartmental Review Meeting held and Design Review Board review. Prior to each phase returning to the Planning Board for a review the applicant shall have executed full complete studies and engineered solutions pertaining to all infrastructure improvements needed to support this Master Plan. This includes sewer capacity, water capacity, and traffic mitigation as recommended by the Department of Public Works. As part of DPW's determination on what mitigation and solutions are necessary to support this Master Plan a peer review of these capacity and improvement studies may be required which will be paid for by the applicant. The applicant

will be required to provide the Board documentation of conformance with the approved Master Plan. A draft tracking form was shown that could be used for documentation in the Site Plan Review process. For each phase, the documentation provided for the Site Plan Review would include this tracking sheet, site plans, architectural elevations, signage and documentation that the requirements of Section 9.5 of the Bylaw are being met. After approval of the Site Plan, a building permit would be able to be obtained for each phase.

In accordance with the procedures and requirements set forth by the Zoning Bylaw:

Major Non-Residential Special Permit Consideration:

Section 9.5.3 – Application Requirements- the applicant has submitted the proper information as required by this section.

Section 9.5.4.1 & 9.5.4.2 – the applicant has submitted the twelve copies as required and an Interdepartmental Review was held on December 4, 2018.

Section 9.5.4.3 a through k:

a. The proposed placement of the buildings – The site is currently occupied by a 178,000 square foot building that will be razed to construct eight buildings (A-H) on site, Building A – 4 story 66,000 square foot hotel, B – 4 story 165, 000 SF retail, restaurant, and office, C - 2 story 30,000 fitness center, D – 4 story 87,000 SF retail, restaurant, and office, E – 4 story 35,000 SF retail, restaurant, and office, F - 3 story 66,000 SF retail, restaurant, office, G – a single story 35,000 SF grocery, and H – 3 story 39,000 SF of retail, restaurant and office. The first floor of the buildings B, D, E, F & H would be dedicated to retail and restaurant. The Building heights have been staggered from one story to four to provide for a visual breakup of the site plus density and lot coverage helped to determine the square footage of the uses.

b. Major topographic changes – the existing site conditions range in elevation from an elevation of 152 feet at the top of a hill adjacent to the cell tower and slopes towards the south west to an elevation of 120 feet at the existing office entrance and 110 feet at the Smith Way driveway connection. The final grading of the roadway and driveways will be within a few feet of the existing elevations, the greatest change to elevations will be to the current cell tower area to be graded to an elevation of approximately 137 feet to accommodate Building A.

c. Surface and groundwater drainage and erosion control – the existing stormwater on the site currently flows to four existing design points on the property and eventually into the Shawsheen River through different paths. The new stormwater system will improve water quality and not increase the existing discharge. The project increases impervious area by 2.6 acres. The system will consist of three underground infiltration basins and five water quality units (stormceptors). The project is meeting the MassDEP Stormwater Management Standards and the Town of Andover Stormwater Regulations.

d. Protection against flooding and inundation – please see comment above.

e. Prevention of water and pollution and environmental damage – please see comment above.

f. Provisions for adequate utility services – utility services will be reviewed at the time of the phased building plan review. Two new water loops will be created to create a redundancy of service and improve water quality. The loops will connect Dascomb Road to Smith Way and Dascomb Road into a main that wraps around Restaurant Depot and ultimately connects back into Smith Way. An existing 8” water main in Smith Way will be replaced with a 12” cement lined ductile iron (CLDI) main.

The property will disconnect from Tewksbury’s sewer system by adding a pump station on site and sewer mains in Dascomb Road. The predevelopment sewer flow demonstrates capacity problems downstream. The developer shall be responsible for repair of structural deficiencies in the sewer mains, upsizing of existing mains and improvement of the capacity of the existing sewer by either removing infiltration and inflow (I/I) in an amount equal to four (4) times the amount of design flow to be added to the system by this proposal, repairing of sewer mains or upsizing of existing mains, or a combination thereof. The applicant shall propose repairs, upsizing and I/I improvements to mitigate the deficiencies with a review by the Andover Department of Public Works and the Planning Board.

g. Provisions for off-street parking and loading – the proposed parking supply of 1,760 parking spaces exceeds the zoning bylaw requirement of 1,747. It has been suggested through the hearings and by GPI (traffic peer reviewer) that there will be a significant sharing of parking spaces as many of the office workers will choose to stay in their space and dine at the site, the Board has encouraged the applicant to request a reduction in parking so as to provide additional green space. The development will include preferential parking for rideshare, carpool, and hybrid vehicles. Loading areas have been shown on the plans located in areas to not interfere with pedestrian usage.

h. Location of intersections of driveways and streets – two access/egress driveways will be provided: a shared full access egress driveway with Restaurant Depot and a loading dock driveway along the easterly side of Smith Way, and a new driveway entrance from Dascomb Road across from Frontage Road.

i. The effect of additional traffic created by the development on intersections and streets likely to be affected by the proposal – The applicant has submitted a Traffic Impact Assessment prepared by TEC, Inc. (TEC) dated October 16, 2018, Greenman-Pedersen, Inc (GPI) was contracted to conduct a peer review of the assessment. In a memo dated November 29, 2018 and July 19, 2019 GPI made recommendations and findings regarding the traffic impact report, overall site plans and off-site improvements. GPI is satisfied with the report and the TEC response memo dated June 25, 2019, and GPI has made recommendations to be implemented pre and post construction. As this is a review of a Master Plan it is understood that the final design of the roadway improvements have not been submitted and are not being approved as part of this approval but the effects of the additional traffic have been reviewed and will be mitigated. The final mitigation measures have been reviewed and will be engineered and designed in conjunction with the Town, State and developer.

j. Provisions for pedestrian/bicycle access ways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs – Within the Master Plan the developer will be constructing sidewalks and accommodations for bicycles on and off site. A five-foot sidewalk will be constructed along the southerly side of Dascomb Road between the existing sidewalk at the intersection of East Street/Dascomb Road/Shawsheen Street to Frontage Road. A new sidewalk on the northerly sidewalk of Dascomb Road will be constructed to connect to the existing sidewalk incorporating a grass strip where feasible. Commitment has been made to installing up to 4 Rectangular Rapid Flashing Beacons (RRFB) and crosswalks at the direction of Town Staff. A new five-foot bicycle lane between the intersections of East Street/Dascomb Road/Shawsheen Street to Frontage Road will be added. Sharrows along Dascomb Road between Frontage and Osgood Street will be added.

k. Provisions for landscaping and adequate screening and buffering – a final planting plan has not been submitted but the Master Plan does have areas of green space and plantings which will be finalized as each building phase comes in for review.

ID2 Uses Special Permit Criteria:

Section 9.4.10:

In addition to the criteria contained in Section 9.4.2. and 9.4.8. of this bylaw, the Planning Board may issue a special permit in the ID2 District for a Personal Service Establishment, Retail Sales Establishment, Convenience Store, Grocery Store, Dry-Cleaning Operation, Restaurant (sit-down) Restaurant (fast-food), & Indoor Commercial Recreation Establishment (See Appendix A, Table 1) only after consideration of the additional special permit criteria outlined below:

a. The proposed development shall have a positive economic benefit to Andover (including, but not limited to, fiscal impact, town services, and employment), is in harmony with the general purpose and intent of the Master Plan and is not unreasonably detrimental to the overall General Business Districts, specifically Downtown Andover.

During the public hearing process the Board engaged the services of RKG Associates, Inc. (RKG) to perform a review of the applicant's Fiscal Impact Analysis dated June 2018. In December 2018 RKG concurred that there will be a net positive benefit for the Town from both a fiscal and economic impact perspective. Later in April 2019, RKG conducted surveys of the downtown business owners and received minimal results. RKG was able to note that there will be some level of sales transfer but the downtown has a loyal customer base and was able to estimate impacts to the downtown of five percent or less of sales transfer. RKG recommended the Dascomb Road vendors, especially the hotel, add informational kiosks to highlight the downtown. Andover's Master Plan outlines goals within the Industrial and Commercial Districts of ensuring that there is adequate infrastructure capacity to serve future development which this project will provide with the sewer mains and pump station. Andover's Master Plan also encourages the creation of a full range of jobs for local residents, from services and trades to high tech and research and development, keep the Industrial Districts competitive; attract new

businesses and create new jobs; this project will provide for local resident job opportunities, new business and creation of jobs.

b. The proposed development shall demonstrate that the scale, massing and detailing of buildings are compatible with the character of the community. The Planning Board may at their discretion require the applicant to submit to the Design Review Board, pursuant to Section 9.6.3. of the Zoning By-Law for the Design Review Board Report.

Through the public hearing process the Board reviewed a different iteration of the plan and encouraged the staggering of building heights. The project is taking advantage of the existing grading by placing the parking structure entrances on Smith Way at the existing elevations and placement of the buildings at a scale that works with the topography and sightlines off of Dascomb Road.

c. The proposed development shall provide landscape plans for the site, the parking areas and internal landscaped islands. The parking areas should service adjacent structures when possible. The Planning Board may at their discretion require additional landscaping.

A final landscaping plan has not been submitted but the Master Plan does have areas of green space and plantings which will be finalized as each building phase comes in for review.

d. The development shall provide for adequate traffic mitigation and improvements if the proposed use negatively impacts current traffic flow conditions. At a minimum the applicant shall be required to join the local transportation management association.

The applicant has submitted a Traffic Impact Assessment prepared by TEC dated October 16, 2018. Greenman-Pedersen, Inc. (GPI) was contracted to conduct a peer review of the assessment. In memos dated November 29, 2018 and July 19, 2019 GPI made recommendations and findings regarding the traffic impact report, overall site plans and off-site improvements. GPI is satisfied with the report and the TEC response memo dated June 25, 2019 and has made recommendations to be implemented pre and post construction. As this is a review of a Master Plan it is understood that the final design of the roadway improvements have not been submitted and are not being approved as part of this approval but the effects of the additional traffic have been reviewed and will be mitigated. The final mitigation measures have been reviewed and will be engineered and designed in conjunction with the Town, State and developer.

Special Permit Criteria

Section 9.4.2

Special permits may be granted when the SPGA has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and town and that such is in harmony with the general purpose and intent of this by-law. In addition to any specific factors that may be set forth in this by-law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;

The ID2 Zoning District was created to help provide amenities to the industrial districts. The uses added to the district include restaurants, grocers, and retail, this project adds all those amenities to the area where they have been lacking in Andover. The project will encourage the creation of a full range of jobs for local residents while attracting new businesses and creating new job opportunities, from services and trades to high tech and research and development. As confirmed in the Fiscal Impact Analysis there will be a net positive benefit for the Town from both a fiscal and economic impact perspective.

2. Traffic flow and safety, including parking and loading;

The Board has reviewed the Traffic Impact Assessment, the suggestions made by the Town's peer reviewer GPI, comments from Town Departments and the public regarding traffic. Based on the information provided the Board can determine that there is a current traffic issue, without mitigation this project would not be feasible, the mitigation required includes additional traffic signals at the intersections of Dascomb Road/Smith Way, Dascomb/I-93 Northbound ramp and Frontage Road/I-93 Southbound Ramp; off-site intersection improvements at Dascomb Road / East Street / Shawsheen Street, Dascomb Road / Lovejoy Road / Acorn Drive, Dascomb Road / Clark Road / Bannister Road, Dascomb Road / Andover Street each of which will require a survey of the intersection and coordination with Town Staff. There will be pedestrian improvements of a five-foot sidewalk along the southerly side of Dascomb Road between the existing sidewalk at the intersection of East Street/Dascomb Road/Shawsheen Street to Frontage Road. A new sidewalk on the northerly sidewalk of Dascomb Road to connect to the existing sidewalk incorporating a grass strip where feasible. Along with a commitment to installing up to 4 Rectangular Rapid Flashing Beacons (RRFB) and crosswalks at the direction of Town Staff. There will be bicycle accommodations between the intersections of East Street/Dascomb Road/Shawsheen Street to Frontage Road and sharrows along Dascomb Road between Frontage and Osgood Street. The project exceeds the zoning bylaw parking requirement with 1,760 parking spaces. Loading areas have been shown on the plans located in areas to not interfere with pedestrian usage.

As this is a review of a Master Plan it is understood that the final design of the roadway improvements have not been submitted and are not being approved as part of this approval but the effects of the additional traffic have been reviewed and will be mitigated. The final mitigation measures have been reviewed and will be engineered and designed in conjunction with the Town, State and developer.

3. Adequacy of utilities and other public services;

Andover does not provide sewer services to this property, with this project a new sewer main and pump station will bring this property into the Town sewer system. As mentioned previously in this document, studies/analysis will need to be conducted and plans developed for mitigation of infrastructure and transportation needs. The water capacity analysis should be based on 100% buildout of the site and should take into account adequate fire protection as well as forecasted demand. The new utilities will be constructed to town standards and allow for other properties to

tie in at their own expense. There will be mitigation for connecting to the Town's sewer system, mitigation could be a hybrid of both a payment to the Town and the applicant performing some of the mitigation work. Prior to the construction of the pump station, all downstream improvements (including upsizing, I/I removal, structural repairs, etc.) shall be completed. Two new water main loops will be created to create a redundancy of service and improve water quality. The loops will connect Dascomb Road to Smith Way and Dascomb Road into a main that wraps around Restaurant Depot and ultimately connect back into Smith Way. An existing 8" water main in Smith Way will be replaced with a 12" cement lined ductile iron (CLDI) main. Further offsite water infrastructure improvements may be needed based on the previously mentioned study(s). New utility services will be constructed to each of the buildings.

4. Neighborhood character and social structures;

The neighborhood character of this project includes a defunct warehouse that has been converted to an office space, a commercial wholesale grocer, research and development buildings located across the street and a paint manufacturer, it is its own triangle neighborhood. The residential areas that make up the community are separated by Interstate 93 making them part of the community but not the neighborhood of this project. This project will enhance the neighborhood and complement the neighborhood in a positive way by bringing much needed amenities for the existing businesses into Andover and adding other businesses to keep the neighborhood thriving.

5. Impacts on the natural environment, including, but not limited to, air and water pollution, noise, stormwater runoff, and aesthetics.

The new stormwater system will improve water quality and not increase the existing discharge. The system will consist of three underground infiltration basins and five water quality units (stormceptors). The project is meeting the MassDEP Stormwater Management Standards and the Town of Andover Stormwater Regulations. A Greenhouse Gas Emissions (GHG) analysis was submitted and will be updated with the State to reflect any changes in building size and/or use since the filing of the Expanded Environmental Notification Form (EENF). A detailed response to the Department of Energy Resources (DOER) comment letter dated February 8, 2019 regarding additional opportunities for energy efficiency and on-site energy generation that appear to be feasible for this project will also be submitted.

It is the Board's opinion that this project meets the town's special permit criteria for ID2 District Uses and a Major Non-Residential Project and with proper mitigation will not be unreasonably detrimental to the neighborhood or town or general business district and it is in harmony with the general purpose and intent of the bylaw and is approved with conditions to ensure compliance with the information provided during the public hearing process.

General Conditions

1. For purposes of this special permit the project shall encompass and be defined as the structures, parking areas, utilities, drainage systems, street improvements, signage, landscaping and all other details as shown on the submitted plans and documented throughout the public hearing process. The site is identified as a parcel of land situated at

146 Dascomb Road, more specifically shown on Assessor's Map 203 Lot 2. The developer is identified and shall be defined as Dascomb Road Development, LLC or his assigns. The developer, as defined, shall be subject to all conditions listed hereunder, and shall be directly responsible for construction of the project, including all contractors, subcontractors, vendors, or other parties working on the site and on the project;

2. This approval is of a master plan, work associated with this project includes the project property improvements, square footage and number of buildings, off-site improvements of traffic mitigation, sewer mains, water mains, pedestrian/bicycle improvements, parking areas, utilities, drainage systems, street improvements, signage, landscaping and all other details all of which will require additional review and approval by the Planning Board, state agencies and town departments;
3. The approval of this master plan is based on the Site Plans entitled "The Dascomb Road Project", dated October 31, 2018 revised June 5, 2019 sheets 1-27, Drainage Report dated October 26, 2018, Fiscal Impact Analysis All-Commercial dated June 2018, Traffic Impact, Access and Parking Study dated October 16, 2018 response memo June 25, 2019, Dascomb Road Project Masterplan dated February 4, 2019, along with the peer reviews received, Town department responses and testimony received during the public hearing process;
4. Prior to starting any construction of off-site improvements the Town and/or developer is required to submit the final design plans for the transportation, sewer main and pump station and water improvements to the Board for review during a public meeting for inclusion into the record. The plans will be distributed to the various departments for an interdepartmental review. The Board may require a peer review of any of the plans and reports submitted. During that public meeting the Board will make a determination if the design is in keeping with the Master Plan. If the Board should determine the design is a major modification from the Master Plan the Town and/or the developer will be required to submit a modification to the special permit to allow for additional Board, Town Departments and public input. If not funded through the Mass Works Grant the developer will be responsible for funding the design and construction of all off-site improvements;
5. Prior to the start of construction of any of the building or on-site improvements the developer shall apply for a modification of a special permit to this decision to finalize record plans and conditions of approval for the on-site improvements, tracking of square footages, traffic mitigation measures and phases which include the site plans, structures, parking areas, utilities, drainage systems, street improvements, off-site improvements, signage, landscaping and all other details as required in a special permit filing;
6. The total building project size is limited to a maximum of 524,000 square feet; restaurants equaling a maximum of 20,000 square feet, retail 80,000 square feet, grocery store 35,000 square feet, hotel 100 room 66,000 square feet, office space 293,000 square feet, fitness center (indoor commercial recreation) 30,000 square feet. Should the developer not place a hotel within the development Building A will remain the same footprint at roughly 16,000 square feet; the use will change the square footage from 66,000 sf of hotel to about 25,000

square feet of office, the final office square footage of Building A will be determined by the traffic counts submitted for the hotel. The removal of the hotel would change the maximum total of office space to 318,000 square feet;

7. A reduction in parking special permit will be necessary should the developer wish to reduce the number of parking spaces required by the Zoning Bylaw as suggested by the Town's traffic peer reviewer GPI (#21 of their November 29, 2018 and July 19, 2019 review);
8. Administration and enforcement of this permit and the conditions attached thereto shall be pursuant to the requirements of the Planning Board's Rules Governing Special Permits;
9. This special permit shall expire two (2) years from the date that this decision has been recorded in the Northern Essex Registry of Deeds unless exercised by the applicant prior to that date. Exercising of this permit shall include the filing of a modification of a special permit to start the review of off-site improvement and/or Building Phase I. The Board may consider extending the special permit upon written request of the applicant provided that such request has been received and a public hearing noticed prior to the expiration of the original permit. In considering a request for extension the Board may take into account conditions on the site and in the neighborhood at the time the request is made, including traffic, access, and pedestrian safety, and may impose such additional conditions deemed appropriate to mitigate any adverse impacts of the development. The on-site development shall be one hundred percent (100%) complete within ten (10) years of approval;
10. As part of the final design plans to be submitted as part of condition #4: to accommodate the new sewer main, pump station and sewer lines which will disconnect this property and other future properties from Tewksbury's sewer system for connection to Andover's sewer and to accommodate future connections to the sewer main and pump station the developer will have to provide a pipe camera video through the downstream sewer mains and an updated sewer capacity modeling which shall demonstrate the mitigation, repairs or upsizing necessary for connection to Andover's sewer system. The predevelopment sewer flow demonstrates capacity problems downstream; the developer shall be responsible for repair of structural deficiency in the sewer mains, upsizing of existing mains and improving of the capacity of the existing sewer by either removing infiltration and inflow (I/I) in an amount equal to four (4) times the amount of design flow to be added to the system by this proposal, repairing of sewer mains or upsizing of existing mains, or a combination thereof. The applicant shall propose repairs, upsizing and I/I improvements to mitigate the previously described deficiencies. The Andover Department of Public Works will review such proposals and will communicate satisfaction to the Planning Board once all concerns are addressed satisfactorily. The I/I amounts of 4:1 can be revised by the Andover Department of Public Works to a lesser amount than the 4:1 or require payment made to the Town for repair or as a combination of I/I removal work and payment to the Town.
11. The sewer pump station shall be designed to Town standards. These standards shall include designing capacity to facilitate flow from existing and potentially developed

areas that could access the pump station via gravity connection as outlined in the Sanitary Sewer Master Plan Update (dated June 2016, by CDM Smith). The station will be privately owned and maintained by the applicant until such time as a second entity ties into it, at which time an inspection by the Town at the cost of the developer will be required to ensure it has been properly constructed and maintained. Once an inspection has been finalized and any deficiencies identified and corrected, the developer can turn ownership of the pump station over to the Town. An easement to the Town over the pump station at the time of construction will be required.

12. The applicant has the right to apply for a portion of Phase 1 (Building H) for a swap of the existing office use (about 27,000 SF) to use in the new Building H but cannot apply for any other building phase construction until all off-site improvements are complete;
13. Traffic improvements shall include but not be limited to new traffic signals at the intersections of Dascomb Road/Smith Way, Dascomb Road/I-93 Northbound ramp and Frontage Road/I-93 Southbound Ramp. Other intersection improvements which will require a survey of the intersections and approval by the Town Departments at the intersections of Dascomb Road/East Street/Shawsheen Street; Dascomb Road/Lovejoy Road/Acorn Drive; Dascomb Road/Clark Road/Bannister Road; and Dascomb Road/Andover Street. Additionally a survey for pedestrian improvements in Tewksbury of East Street from Jill's way to Leston Street and of Shawsheen Street from 1636 Shawsheen Street to Vale Street shall be required and submitted to the Board for a determination of whether new sidewalks should be constructed;
14. Pedestrian and Bicycle accommodations will be made on site and on Dascomb Road and East Street Tewksbury. A five-foot sidewalk along the southerly side of Dascomb Road between the existing sidewalk at the intersection of East Street/Dascomb Road/Shawsheen Street to Frontage Road. A new sidewalk on the northerly sidewalk of Dascomb Road to connect to the existing sidewalk incorporating a grass strip where feasible. The developer has committed to installing up to 4 Rectangular Rapid Flashing Beacons (RRFB) and crosswalks at the direction of Town Staff;
15. The Board on its own motion can modify the conditions of approval. The developer will be notified of any such motion;
16. Prior to the issuance of a building permit(s), pursuant to MGL Chapter 44 Section 53G, the applicant shall pay for the Inspector of Buildings to obtain services of a qualified outside consultant or consultants as chosen by the Inspector of Buildings, and paid for by the applicant, for the purposes of a building code review of all construction documents and also for an outside consultant's building code compliance inspections throughout the project. The applicant shall pay in full for such code review and code compliance inspections prior to the issuance of any and all building permits;
17. Within each application for modification/amendment to this special permit for the phased construction the developer will submit a tracking spreadsheet in a form approved by the Planning Board for use in conjunction with the issuance of building permits. This

spreadsheet shall monitor and ensure compliance with the master plan for building use square footages, parking spaces and traffic trips and include monitoring of the wear and tear of the at grade railroad crossings in Tewksbury. Within each phase the Board will review the occupancy of the previously constructed phases and the affect, if any, on the downtown. The Board shall have the right to reduce the square footage of the restaurant uses should it find there has been an unreasonable detriment to downtown;

18. A security to ensure the proper completion of the public and private utilities and roadway improvements must be posted in a form to be reviewed by Town Counsel and the approved by the Planning Board. The surety amount will be in an amount recommended by the Town Engineer;
19. Prior to construction of each phase all easements to be accepted by the Town shall be reviewed by Town Counsel and the Planning Board prior to acceptance by the Select Board. ;
20. In the event that blasting should be required the developer shall be subject to the blasting requirements as set forth in the Andover Fire Rescue, Standard Operating Guidelines. Any blasting operations shall require proper permits, and may not be undertaken on any weekend or holiday;
21. Information kiosks highlighting downtown businesses are to be included throughout various entities and specifically as part of the hotel component if appropriate;
22. Prior to commencement of any construction activities, the documents establishing the Association that will maintain the private utilities must be reviewed by Town Counsel, approved by the Planning Board and recorded at the Northern Essex Registry of Deeds.
23. Following the installation of water lines, sewer lines and pump station the developer shall prepare an interim as-built plan;
24. The developer will provide funding to the town for ongoing consultant review of the traffic/transportation and pedestrian mitigation, sewer pump station inspection;
25. Screening will be required, as field conditions warrant, to the residential properties from any new traffic signalization or Rectangular Rapid Flashing Beacons (RRFB);

Throughout and During Construction

26. All activities on the site shall be conducted in a workmanlike manner. All construction equipment, supplies and building materials shall be appropriately secured against unauthorized access. Construction debris and litter shall be collected and stored in appropriate containers on the site and shall be removed as promptly and regularly as possible. Appropriate measures (or those directed by the Inspector of Buildings) shall be taken so as to protect adjacent properties from dust and other windblown debris during site preparation and construction;

27. All hauling operations involving the import and export of earth materials and removal of all debris associated with the building to be demolished on the site shall be conducted in accordance with a schedule approved by the Inspector of Buildings;
28. Except for periods during replacement if required, all public sidewalks adjacent to the site shall be kept open, and in a safe and passable condition. No fences, barriers, or gates may be placed or installed within the town way unless otherwise approved by the Police or Inspector of Buildings;
29. Construction activities on and off the site including equipment startups, site preparation, excavation, demolition, grading, filling, paving, erection of structures, installation of utilities, and landscaping shall be conducted between the hours of 7:00 a.m., and 6:00 p.m. Monday -Saturday, unless otherwise directed by a state agency or the town to provide evening or overnight road and infrastructure work to minimize the delays with traffic;
30. Burning or burial of trees, stumps, or construction debris of any kind is strictly prohibited anywhere on site;
31. Lighting fixtures in the parking area shall be shielded and directed inward toward the site. Due to the nature of the business to be conducted on the site a certain amount of lighting may be required at all times for security purposes, and to that end the developer shall consult with the Andover Police Department to determine the level of lighting needed, the number of fixtures necessary to achieve that lighting, and the times lighting must be provided during the nighttime hours. Those fixtures not required for nighttime security shall be placed on a timer and shall be extinguished when the operations or activities in the building are not being conducted;
32. Construction of the project, once begun, shall continue through to completion as expeditiously and continuously as possible; however, in the event that construction activities cease on the part of the developer for a period of six (6) months from the date of last observed activity, the Board may convene a public hearing for the purpose of revocation or modification of the permit;

Prior to Occupancy

33. A set of as-built plans for utilities (water, sewer and drainage) both on and off the site shall be submitted to and approved by the Department of Public Works after all installations are complete, and before the issuance of a Certificate of Occupancy;
34. Prior to occupancy, the applicant shall submit to the Planning Department digital files of as-built plans of the features listed above, including utilities and buildings;

Specific to this Special Permit

35. An inspection, maintenance report and cleaning for the stormwater system must be completed and documentation submitted by the developer annually to the Planning Division;
36. After one year of occupancy of each of the Buildings the developer will conduct a traffic analysis to determine what revisions, if any, need to be done to the traffic signal timing in consultation with the Town;
37. As agreed upon by the applicant, complete studies and engineered solutions will be submitted pertaining to all infrastructure improvements needed to support this Master Plan including sewer capacity, water capacity, and transportation mitigation as recommended by the Department of Public Works. As part of DPW's determination on what mitigation and solutions are necessary to support this Master Plan, a peer review of these capacity and improvement studies may be required which will be paid for by the applicant. Studies/analysis will need to be conducted and plans developed for mitigation of infrastructure and transportation needs. The water capacity analysis should be based on 100% buildout of the site and should take into account adequate fire protection as well as forecasted demand. The new utilities will be constructed to Town of Andover standards and allow for other properties to tie in at their own expense. There will be mitigation for connecting to the Town's sewer system, mitigation could be a hybrid of both a payment to the Town and the applicant performing some or all of the mitigation work. Prior to the construction of the pump station, all downstream improvements (including upsizing, I/I removal, structural repairs, etc.) shall be completed.

Following the statutory twenty-day appeal period, and in the absence of any appeal an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

The Planning Board deliberated on the application during a public meeting on September 3, 2019, and subsequently voted 5 - 0 to issue the foregoing Special Permit with Conditions.

THE ANDOVER PLANNING BOARD

Date: 9/5/19

Zachary Bergeron
Zachary Bergeron, Chairman

Essex, ss:

COMMONWEALTH OF MASSACHUSETTS

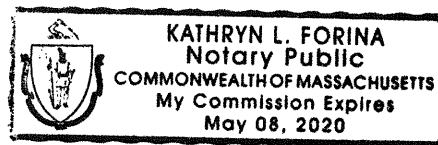
Date:

On this 5th day of September, 2019 by Zachary Bergeron the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that he signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,

Kathryn L. Forina
Kathryn L. Forina, Notary Public

My Commission Expires: May 8, 2020



CERTIFICATION

I, Austin Simko, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in the Office of the Town Clerk on and no appeal has been filed with the Town Clerk.

Date: 9-25-2019

Austin Simko
Town Clerk